

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
FLORENCE DIVISION

Joseph Andrew Davis, #16001-058,	)	
	)	
Petitioner,	)	
	)	
vs.	)	Civil Action No.:9:07-1670-TLW-GCK
	)	
Warden Michael Pettiford,	)	
	)	
Respondent.	)	
_____	)	

**ORDER**

On June 19, 2007, the petitioner, Joseph Andrew Davis, (“petitioner”) proceeding *pro se*, filed this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 alleging that he is in custody in violation of the Constitution of the United States. (Doc. #1). The case was automatically referred to United States Magistrate Judge George C. Kosko pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02 (B)(2)(c), DSC. The respondent, Warden Michael Pettiford, (“respondent”) filed a motion for summary judgment on October 19, 2007. (Doc. #14). On October 23, 2007, Magistrate Judge Kosko issued an order pursuant to Roseboro v. Garrison, 528 F.2d 309 (4<sup>th</sup> Cir. 1975), advising petitioner of his responsibility to properly respond to the motion for summary judgment. (Doc. #15). Petitioner filed a response on November 16, 2007. (Doc. #17).

This matter now comes before this Court for review of the Report and Recommendation (“the Report”) filed by Magistrate Judge Kosko , to whom this case had previously been assigned. (Doc. #24). In the Report, Magistrate Judge Kosko recommends that “respondent’s motion for summary judgment be granted, and the petition dismissed without an evidentiary hearing.” (Doc. #24). The petitioner has filed objections to the Report. (Doc. #26).

In conducting this review, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections...The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a *de novo* determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the Report and Recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case, the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F. Supp. 137, 138 (D.S.C. 1992) (citations omitted). In light of this standard, the Court has reviewed the Report. After careful review of the Report and objections thereto, the Court **ACCEPTS** the Report. (Doc. #24). Therefore, for the reasons articulated by the Magistrate Judge, it is **ORDERED** that respondents' motion for summary judgment be **GRANTED** (Doc. #14) and the petitioner's complaint **DISMISSED**. (Doc. #1).

**IT IS SO ORDERED.**

s/Terry L. Wooten

Terry L. Wooten  
United States District Judge

July 23, 2008  
Florence, South Carolina